

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE:

BRIMONIDINE PATENT LITIGATION

C.A. No. 07-md-1866-GMS

**MOTION TO STAY CASE AGAINST EXELA,
TOLL THE 30-MONTH HATCH-WAXMAN ACT STAY, AND ALLOW ALLERGAN
TO USE INFORMATION PRODUCED IN THIS CASE TO PREPARE A CITIZENS'
PETITION TO BE FILED WITH THE FDA**

Plaintiff Allergan, Inc. respectfully moves this Court to enter an Order staying the above-captioned action against Exela PharmSci, Inc., Exela PharmSci Pvt., Ltd., Paddock Laboratories, Inc., and PharmaForce, Inc., tolling the 30-month stay under the Hatch-Waxman Act until the Court lifts the stay in this case, and granting leave of the Court to use information produced under the protective order in this case in a citizen's petition that Allergan will file with the FDA.

The reasons supporting this motion are set forth in Allergan's opening brief filed herewith.

Dated: September 3, 2008

FISH & RICHARDSON P.C.

By: /s/ William J. Marsden, Jr.

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**ATTORNEYS FOR
ALLERGAN, INC.**

**CERTIFICATION PURSUANT TO
DISTRICT OF DELAWARE LOCAL RULE 7.1.1**

Counsel for Plaintiff Allergan, Inc. has consulted with counsel for Exela PharmSci, Inc., Exela PharmSci Pvt., Ltd., Paddock Laboratories, Inc., and PharmaForce, Inc., pursuant to District of Delaware Local Rule 7.1.1 and have been advised that they will not consent to the relief sought by the Motion.

/s/ William M. Marsden, Jr.

William J. Marsden, Jr. (#22247)

Dated: September 3, 2008

FISH & RICHARDSON P.C.

By: /s/ William J. Marsden, Jr.

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Attorneys for
Allergan, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2008, I hereby served MOTION TO STAY CASE AGAINST EXELA, TOLL THE 30-MONTH HATCH-WAXMAN ACT STAY, AND ALLOW ALLERGAN TO USE INFORMATION PRODUCED IN THIS CASE TO PREPARE A CITIZENS' PETITION TO BE FILED WITH THE FDA on the following counsel of record at the address and in the manner indicated below:

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A redacted copy of this filing prepared pursuant to L.R. 5.1.3 and CM/ECF XIV.C will be served upon counsel for Apotex. Counsel for Apotex is not being served with this unredacted filing because it contains confidential information of Exela. Pursuant to an agreement of the parties, confidential information received from one defendant, in this instance Exela, may not be disclosed to the other defendant, in this instance Apotex.

/s/ William J. Marsden, Jr.

William J. Marsden, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE:

BRIMONIDINE PATENT LITIGATION

C.A. No. 07-md-1866-GMS

**PROPOSED ORDER GRANTING MOTION TO STAY CASE AGAINST EXELA,
TOLL THE 30-MONTH HATCH-WAXMAN ACT STAY, AND ALLOW ALLERGAN
TO USE INFORMATION PRODUCED IN THIS CASE TO PREPARE A CITIZENS'
PETITION TO BE FILED WITH THE FDA**

IT IS HEREBY ORDERED that:

1. Plaintiff Allergan, Inc.'s Motion to Stay this case is GRANTED, and the case against Exela PharmSci, Inc., Exela PharmSci Pvt., Ltd., Paddock Laboratories, Inc., and PharmaForce, Inc. is stayed, the 30-month stay under the Hatch-Waxman Act is tolled until the Court lifts the stay in this case, and leave of the Court to use information produced under the protective order in this case in a citizen's petition that Allergan will file with the FDA is granted.

Dated: _____, 2008

CHIEF, UNITED STATES DISTRICT COURT JUDGE